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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,708	10/06/2006	Paul Brown	BAR1 MG31852P USP	5105
3775 7590 07/10/2007 ELMAN TECHNOLOGY LAW, P.C. P. O. BOX 209 SWARTHMORE, PA 19081			EXAMINER VANATTA, AMY B	
			ART UNIT 3765	PAPER NUMBER
			MAIL DATE 07/10/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/595,708

Applicant(s)

BROWN, PAUL

Examiner

Amy B. Vanatta

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 12-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 07132006.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 16-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16 recites "the bottom edges" without antecedent basis. It is unclear what bottom edges are being referred to.

Claim 16 is indefinite in reciting "it" in line 4, since it is unclear to what structure "it" refers. Also, it is unclear to what "the other side" refers (i.e. the other side of what or other side of which structure?).

Claim 17 recites "the sew line" without antecedent basis.

Claim 18 recites "the open position" and "the base material" without antecedent basis.

Claim 18 is indefinite in reciting "it" in line 3, since it is unclear to what structure "it" refers in this context.

Claim 19 recites "the front face" without antecedent basis. It is unclear which face is the front face.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Ferrucci et al (US 3,917,501).

Ferrucci et al disclose a non-woven fabric comprising a blend of powdery fibers and natural or synthetic rubber. Ferrucci discloses that the material may be made into a bib (col. 2, line 37). Ferrucci discloses the use of neoprene (col. 5, line 11). The neoprene is coated with fibers on both sides (see col. 4, lines 22-23); thus, the neoprene is covered in a material facing (fibers) on both sides as in claims 12 and 13. The fibers may be nylon (col. 5, lines 46-47) as in claim 14.

5. Claims 12, 15, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by David (US 2,357,636).

David discloses an apron made of neoprene (pg. 1, col. 2, lines 18-19; pg. 3, col. 1, lines 50 and 66). The neoprene is covered in a material facing, such as canvas (pg. 2, col. 1, lines 17). Canvas is absorbent to the extent recited in claim 19, and the structure is sewn together to form an apron. The apron has a pocket (94) as in claim 15. This pocket additionally forms an absorbent layer (canvas) sewn to the front face to the extent recited in claim 19.

The apron structure disclosed by David forms a "bib" as claimed. The recitation of the bib being a "baby bib" does not impart any additional structure to the bib, but merely is a recitation of the intended use of the bib on a baby. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

6. Claim 12 is rejected under 35 U.S.C. 102(b) as being anticipated by Vistins (US 4,174,542).

Vistins discloses an apron made of neoprene (col. 4, line 66) covered in a material facing (textile base fabric as disclosed in col. 2, lines 18-41; col. 4, lines 13-46 and 65, and col. 6, lines 57-67).

The apron structure disclosed by Vistins, as shown in Fig. 10, forms a "bib" as claimed. The recitation of the bib being a "baby bib" does not impart any additional structure to the bib, but merely is a recitation of the intended use of the bib on a baby. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

7. Claims 12-14 are is rejected under 35 U.S.C. 102(b) as being anticipated by Sonntag (US 4,030,139).

Sonntag discloses an apron made of neoprene (11) covered in a material facing (24 or 10); see col. 2, lines 51-61, and in particular line 60. The neoprene has a material facing on both sides (see 24 and 10) as in claim 13. Layer 10 may comprise nylon (col. 2, line 54) as in claim 14.

The apron structure disclosed by Sonntag, as shown in Fig. 1, forms a "bib" as claimed. The recitation of the bib being a "baby bib" does not impart any additional structure to the bib, but merely is a recitation of the intended use of the bib on a baby. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newlin (US 704,206) in view of Ferrucci et al (US 3,917,501).

Newlin discloses a bib having the claimed structure, and teaches that the bib is made out of oil-cloth or other similar material (lines 29-31). Newlin does not disclose that the bib is made out of neoprene material covered in a material facing. Ferrucci

Art Unit: 3765

discloses such a material, comprising neoprene (col. 5, line 11) coated with a "material facing" (fibers). The neoprene is covered on both sides by this material facing (fibers) as in claim 13; see col. 4, lines 22-23. The fibers may be nylon (col. 5, lines 46-47) as in claim 14. Ferrucci discloses that this material is advantageous since it imparts the feel of fabric without substantially reducing the flexibility and strength of the rubber or elastomer in the sheet, and also avoids the complexities of web formation and impregnation of the web involved in other methods of making such material (see Abstract and col. 1, lines 29-31 and 58-68). Ferrucci specifically teaches that the material may be used for bibs (col. 2, lines 33-37). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the bib of Newlin out of the material of Ferrucci, comprising fibrous coated neoprene, in order to impart the feel of fabric without substantially reducing the flexibility and strength of the sheet, and to use an easily manufactured material.

Regarding claims 15-16, Newlin discloses the bib as having a pocket 14 formed by attaching a small piece of the bib material to a larger piece of the bib material (see Fig. 1) so that the pieces are flat together. The structure is clearly capable of being turned inside, with the claimed effects as in claim 16. The structure is sewn together around the edges (see lines 31-33).

Regarding claim 17, the sewing appears to be close to the edge as shown in Fig. 1. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the sew line in the bib of Newlin as being less than 9.5 mm from the bib edges, since it has been held that discovering an optimum value of a

Art Unit: 3765

result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

10. Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferrucci et al (US 3,917,501) in view of Lucas (US 6,237,150).

Ferrucci et al disclose making a bib out of the claimed material. The details of the bib are not disclosed. The bib structure as recited in claims 15-18, however, is conventional and well known. As shown by Lucas, bibs are known to be made with a pocket, particularly a pocket formed by attaching a small piece of the bib material (see 34 of Lucas) to a larger piece of the bib material (see panel 12) so that the pieces are flat together. The structure is clearly capable of being turned inside, with the claimed effects as in claim 16. Lucas teaches that the width of the pocket piece 34 is wider than the base material to which it is attached, causing it to protrude outwards as in claim 18 (see col. 3, lines 54-61). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the bib disclosed by Ferrucci having the claimed pocket structure, since bibs commonly having pockets to catch spilled food and liquid, and such a bib structure is conventional in the art and is easily manufactured, as shown by Lucas. Additionally, bib components are conventionally sewn together, as recited in claims 16 and 18 since sewing is an economical, easily performed, and durable means of attaching. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the sew line less than 9.5 mm from the bib edges, as in claim 17, in the bib of Ferrucci modified in view of Lucas, since it



has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy B. Vanatta whose telephone number is 571-272-4995. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on 571-272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

Art Unit: 3765

USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Amy B Vanatta  
Primary Examiner  
Art Unit 3765